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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,054	11/06/2001	Merrit N. Jacobs	CDS-255	9036

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EXAMINER

GORDON, BRIAN R

ART UNIT PAPER NUMBER

1743

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/993,054	Applicant(s) JACOBS ET AL.	
Examiner Brian R. Gordon	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 November 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 18-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 November 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-6-01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to **a single paragraph** on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract employs claim terminology such as "comprise". It is unclear if applicants abstract is a single paragraph.

Claim Rejections - 35 USC § 112

2. Claim 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites "wherein said transition zone of the one cavity is formed by a variance of said inside diameter that increases in value as the middle most cavity is transited outward into either of said other two end cavities."

It is unclear which of the three cavities considered "the one cavity".

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It appears as if applicant is attempting to claim the device of Figure 8. As such the middle cavity is transited outward into **each or both** of the other two cavities as seen in Figure not just one as implied by the term "either".

It appears as if the claim should read: wherein said transition zones of the one cavity is **said two adjacent cavities are** formed by a variance of said inside diameter that increases in value as the middle most cavity is transited outward into ~~either~~ each of said other two end cavities.

As to claim 19 it appears as if applicant is intending to claim the embodiment of Figure 9. In claim 18 applicant claims "a wall defining 3 connected cavities...." The term "a wall" suggests that the cavities are all formed from a single wall as shown in Figure 8. However, claim 19, which depends upon claim 18, suggests that the cavities may be separated. Single walled device of claim 18 cannot be separated. It is suggested that applicant amend claim 18 to recite "at least one wall" allowing for antecedent basis of a second wall as implied by claim 19 and shown in Figure 9.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Greenfield US 5,891,397.

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Greenfield discloses a connecting tube device 32 that meets all the limitations of the claim. The tube as seen in Figure 5, comprises 3 cavities formed by a wall, a middle cavity that transitions outward into two adjacent cavities.

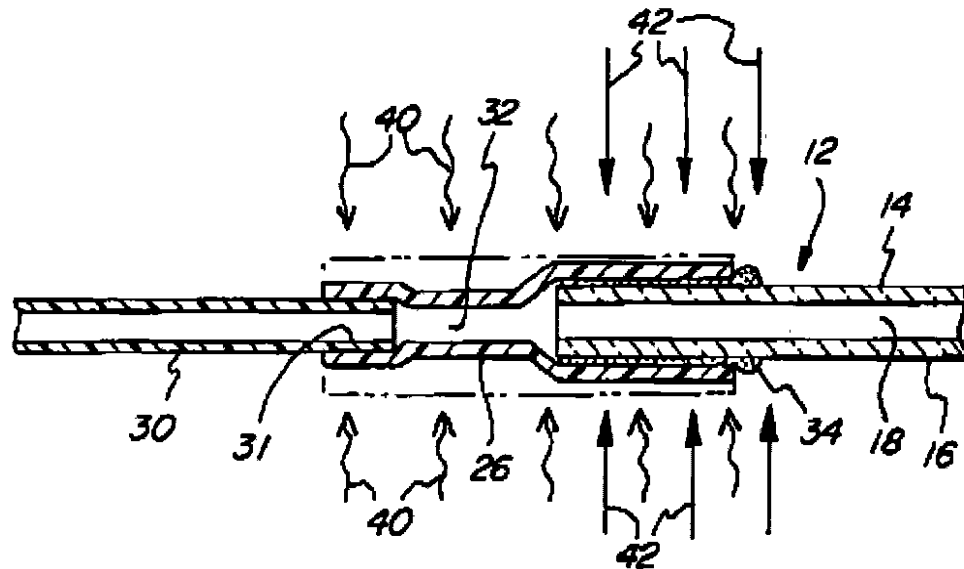


FIG. 5

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenfield US 5,891,397.

Greenfield discloses a connecting tube device 32 that meets all the limitations of the claim. The tube as seen in Figure 5, comprises 3 cavities formed by a wall, a middle cavity that transitions outward into two adjacent cavities.

Greenfield does not disclose that the plastic tube 32 is formed by a plurality of tubes.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to recognize that the plastic tube 32 may also be formed by connecting to separate molded tube sections for the entire assembly as seen in figure 5 is formed from a plurality of tubes of different sizes connected together. The formation of the tube 32 into separate pieces would allow for different sized tubes 30 and 16 to be connected to the assembly.

As to claim 20 as seen it appears as if the diameter of the larger cavity is at least three times as larger as the smaller cavity.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yiu, Felix H.; Moulton, Tom; Komatsu, Akihiro; Zabetakis, George E. et al.; Kilmer, Kathleen Ellen; DeVaughn, Donald H. et al.; Conti, Davide et al. ; Marvin, Russel H. ; Pardinas, Guillermo P. ; Wittmer, Douglas P. et al.; Roach, William J.; Jakubowicz, Raymond F. et al.; Sheehan, Neil J. et al.; Bennett, John T. et al.; Nicholas, Dovas; and Schoeppe, Torsten disclose pipette tips and other adapter devices.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

brg


Jill Warden
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Technology Center 1700